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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/882,610	06/15/2001	Peter M. Bergler	MS1-690US	8484

22801 7590 09/09/2005

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EXAMINER	
SMITH, TRACI L	

ART UNIT	PAPER NUMBER
3629	

DATE MAILED: 09/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/882,610	BERGLER ET AL.	
	Examiner	Art Unit	
	Traci L. Smith	3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *16 June 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-55* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-55* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. This action is response to papers filed on June 16, 2005.

2. Claims 1, 12, 16 and 35 have been amended.

3. Claims 50-55 have been added.

4. Claims1-55 are rejected.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-4, 10-12, 14-21, 26-30, 32-37, 41-47 and 49-55 are rejected under 35 U.S.C. 102(e) as being anticipated by US patent 6,189,146 Misra et al. System and Method for Software Licensing.

7. As to claims 1, 12, 30, 35, 41, 43 and 49 Mirsa teaches issuing a license with and expiration date and reissuing the licenses(C.3 l. 1-7 Table 1) Although Misra does not explicitly state a new expiration date a this is implied as all the licenses issued have an expiration date, if you issuing a client a new license it is inherent that you are putting a new expiration date with that license. Issuing a new license if the previous license is not available(C. 15 l. 19-25)

8. As to claims 2, 19, 37, 42 and 16-47 Misra teaches issuing a new; requesting a new a new license when a new upgraded version is available(it's only available during a certain period of time0.(C. 16 l. 59-63) Determining if a license is lost and issuing a new license(C. 15 l. 13-16) Issuing a temporary license if new license is not available(C. 17 l. 8-12).

9. As to claims 3-4, 20-21, 36 and 44-45 Misra teaches a license request; reissuing a license when still available(C. 4 l. 54-57) Issuing a new license when old license is not available(C. 15 l. 19-25). Both dening and granting access to terminal dependent on security settings when license is not avaible.(Cl 17 l. 19-21; C. 14 l. 10-11).

10. As to claims 10 and 26 teaches temporary licenses not being renewable(Cl. 17 l. 27-29.

11. As to claims 11, 14-15, 17-18, 27-29, 32-33 and 50-55 teaches the license issuing renewing and tracking taking place across a networked computer system(C. 4 l. 30-48)

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

13. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

14. Claims 5-9, 13, 22-25, 31, 38-40 and 48 rejected under 35 U.S.C. 103(a) as being unpatentable over US patent 6,189,146 Misra et al as applied to claim s 1, 12, 30, 35, 41, 43 and 49 Misra,

15. As to claims 5-9, 13, 22-25, 31, 38-40 and 48 Misra teaches various time lines for issuing and expiring licenses(Table 1-5). A set temporary period (C. 17 l. 7-11) Although Misra fails to teach the exact length of a temporary period it would be obvious to one skilled in the art that when giving the temporary license a limit or a finite duration it would include making it 90 days. Although Misra fails to teach an upgrade period for a select time before expiration, it would have been obvious to one skilled in the art at the time of invention to make the period before the license expires to make it a simplier process for the user to renew the license.

Response to Arguments

16. Applicant's arguments with respect to claims 1-55 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

17. Applicant's submission of an information disclosure statement under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p) on June 24, 2005 prompted the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 609.04(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Traci L. Smith whose telephone number is 572-272-6809. The examiner can normally be reached on Monday-Thursday 6:00 am-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 571-272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TLS

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